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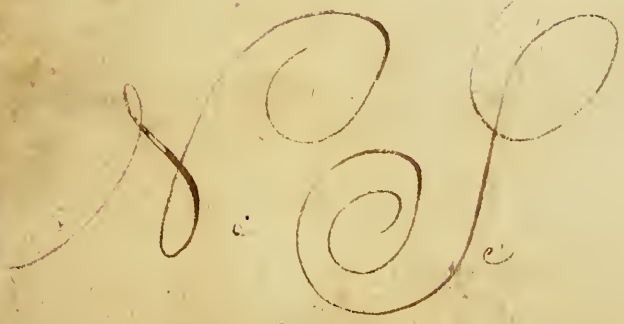

FRONTISPIECE.

THE

TRIAL

OF

George Robert Fitzgerald, Esq.

Timothy Brecknock, Esq.

BARRISTER AT LAW, AND OTHERS,

FOR THE

MURDER

OF

Patrick Randal M'Donnel, Esq.

AND

MR. HIPSON.

Taken in SHORT HAND

BY PATRICK MURPHY, GENT.

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THE

TRIAL

OF

JAMES FITZGERALD, Esq.

Timothy Brecknock, Esq. and others.

PREVIOUS to our relating the particulars of Mr. Fitzgerald's trial on the 8th of June, we think it necessary to mention what passed at Castle-bar on the 11th and 12th of April last. It was intended that he should then have taken his trial, and the following Grand Jury were sworn, viz.

Sir NEALE O'DONNEL, Bart. Foreman.

Right Hon. James Cuffe	William Ruttlege, Esq;
Hon. Henry Browne,	Hugh O'Donnel, Esq;
T. S. Lindsay, Esq;	James Browne, Esq;
Charles Castello, Esq;	Thomas Ormsby, Esq;
John Bingham, Esq;	John Ormsby, Esq;
T. Lindsay, senior, Esq;	Richard Blake, Esq;
T. Lindsay, junior, Esq;	Edward Browne, Esq;
Francis Knox, Esq;	Wm. Brabazon, Esq;
Arthur French, Esq;	George O'Maley, Esq;
George Miller, Esq;	William Oram, Esq;
Charles Bowen, Esq;	James O'Donnel, Esq;

The Lord Chief Baron Yelverton gave a learned and able charge to the jury; after which Mr. Stanley moved the court for liberty to admit counsel, and his agents, to Mr. Fitzgerald, He stated that since

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the revolution, there had not been an example of ſuch ſeverity; that even in the caſe of the aſſaſſins in the reign of king William, it had not been ſo: that in the caſe of lord Winton alſo, his friends were admitted. He was proceeding to recite other caſes, but the chief baron interrupted him, ſaying he need not make a parade of caſes; if there had been a private application to the Attorney General, he did not doubt but every reaſonable indulgence would be ſhewn him.

The Attorney General ſaid that every thing had been done and would continue to be done, which was conſiſtent with his ſafe keeping.

The High Sheriff (the Hon. Denis Brown) requeſted leave to ſay a few words. He ſaid he had been obliged to order Mr. Fitzgerald under cloſe confinment, from attempts made by himſelf; he had endeavoured to bribe the under-ſheriff to permit him to eſcape.

The high ſheriff was proceeding to ſtate other matters, when he was interrupted by the chief baron, who obſerved, that ſtating ſuch facts might tend to prejudice the minds of men who might probably be on the petit jury that were to try Mr. Fitzgerald.

It was then moved by Mr. O'Ferrall, that Mr. Thomas Burgeſs might be admitted to Mr. Fitzgerald. He ſtated that he was a perſon abſolutely neceſſary to him for pecuniary purpoſes.

It was obſerved by the high ſheriff, that he did not think it prudent to admit him to Mr. Fitzgerald; but, after ſome arguments, the Chief Baron ordered that Mr. Burgeſs ſhould be admitted, all neceſſary precautions being taken. He alſo ordered that Mr. Fitzgerald's agent, named Mr. John Lynott, ſhould be admitted to him, and one or two of his counſel. The counſel he had engaged were Mr. O'Ferrall, Mr. Stanley and Mr. Owen.

The next day the Chief Baron ordered the ſeveral perſons charged with murder, to be brought up and be arraigned; and ſeveral of them were accordingly brought up; among whom was Mr. Timothy Brecknock formerly an Engliſh Solicitor, who has been the friend and companion of Mr. Fitzgerald for ſeveral years. His ſhabby dreſs, and length of beard which is grey, gave him a very pauperiſh appearance.

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The Judge having taken his ſeat, Mr. Brecknock addreſſed himſelf to the court, ſtating that age had rendered him weak and infirm, and begged to be admitted within the bar that he might ſit. The Baron, however, refuſed to comply with his requeſt, but conſented that a chair ſhould be provided for him, that he might ſit in the dock.

Mr. Stanley then ſtated, that counſel on behalf of Mr. Fitzgerald, had a motion to ſubmit to the court. He ſaid that, though his client was not able to procure an affidavit from a phyſician that his health was precarious, or from a ſurgeon that his ſtate was uncertain; that he could not himſelf make that affidavit; yet he truſted to lay before the court ſuch an affidavit, as to the ſtate of his mind, as to induce his lordſhip to poſtpone the trial. He alſo ſaid, that he had an application to make to his lordſhip's humanity, which was, to requeſt his lordſhip to go to the gaol to take his affidavit; as, from the treatment Mr. Fitzgerald had received, he had been confined to his bed, and could not come to the court in any other manner; and he ſaid he believed it was a frequent practice for judges to go to the gaol of Newgate, in Dublin, for ſimilar purpoſes, and hoped his lordſhip would ſo far indulge his client.

The Attorney General aſked Mr. Stanley if he meant to put off the trial before Mr. Fitzgerald had pleaded?

His lordſhip aſked if there was any affidavit that Mr. Fitzgerald's ſtate of health was ſuch, that he could not with ſafety come into court to be arraigned? Whereupon Mr. O'Farrell begged five minutes time to conſult with Mr. Fitzgerald whether he could make ſuch an affidavit; which being granted, his counſel went to him, and, after a ſtay of about a quarter of an hour, returned.

It was then ſtated by Mr. Ulick Burke, that Mr Fitzgerald could not come into court with ſafety to his life. It was then aſked, by the Chief Baron, if Mr. Fitzgerald had been viſited by any perſon of medical ſkill.

Mr. Owen declared, that Mr. Fitzgerald ſtill languiſhed under injuries received, whilſt in the cuſtody of the law, from the moſt ſavage and brutal barbarity, and hoped his lordſhip would take the affidavit. Mr. Burke alſo alledged, that Mr. Fitzgerald laboured under extreme illneſs, and that a violent raſh on his ſkin made it unfit for him to leave his bed.

An affidavit was then ſtated by Mr. Stanley, which Mr. Fitzgerald propoſed to make to put off the trial; in which it was alledged that his ſtate of health was ſuch, as not to be able to take his trial at the preſent aſſizes.

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The Attorney General obſerved, that it had been ſtated by counſel, that Mr. Fitzgerald could not make ſuch an affidavit as was now propoſed; but, ſo ſoon as his counſel were admitted, the affidavit was prepared, and the chief baron agreed with the attorney general that the facts were ſo. But, in order to exculpate himſelf, Mr. Stanley ſaid that he had no previous converſation with Mr. Fitzgerald, and had miſconceived his ſtate of health.

The Chief Baron obſerved, that no perſon accuſed him of improper conduct; and, it being ſuggeſted by a gentleman in court, that Dr. Boyd, the phyſician who had attended Mr. Fitzgerald, was then in court, the Chief Baron deſired him to viſit Mr. Fitzgerald, and report his ſtate of health:— and the court adjourned for half an hour.

The court being reaſſumed, Dr. Boyd, on the ſuggeſtions of Mr. M'Carthy, one of Mr. Fitzgerald's counſel, was ſworn; when he declared that Mr. Fitzgerald might be brought up, warmly covered, or in bed, as he alledged that he had no cloaths: that his long lying in an horizontal poſture had made it, perhaps, leſs ſafe for him to come in any other manner; and that, contrary to all patients he had known, who generally deſired to leave their beds, he could not prevail upon Mr. Fitzgerald to quit his; nor could he be induced to take animal food, which would have ſpeedily amended the injuries he had ſuffered by loſs of blood.

Mr. Fitzgerald, however, was at length brought into court in his bed, and laid on the witneſſes table, where he was arraigned, "As being pre-"ſent, aiding, abetting, and aſſiſting in the murder of Patrick Randal Mc. "Donnell, Eſq. at the bridge of Kilnecarra, in the county of Mayo, on the "twenty-firſt of February laſt:" as were Timothy Brecknock, Andrew Craig, otherwiſe Creagh, commonly called Scotch Andrew, James Foy, William Fulton, John Chapman, and Wallis Kelly, charged with traiterouſly murdering the ſaid Patrick Randal Mc. Donnell.

When Mr. Brecknock was called upon to plead, he ſaid there did not appear to be any *conſtat* of a true bill againſt him; that, in that caſe, the preſumption of the law was, that the bill was *ignored*, and claimed his right to ſee the true bill.

The judge ordered the clerk of the crown to go on with his duty; and the bill ending "againſt the form of the ſtatute." Mr. Brecknock aſked what

hat ſtatute? To which the court anſwered, it was now premature. *N. B.* In Ireland, murder is high treaſon by ſtatute.

When he was aſked how he would be tried, and was inſtructed by the clerk of the crown to ſay, "by God and my country," as uſual; Mr. Brecknock ſaid, "I ſhould chooſe to be tried by God, and not by *your country*."

After being repeatedly urged to anſwer in the uſual manner, the Chief Baron informed him, that if he did not anſwer in the uſual manner, he muſt proceed according to law, conſider him as mute, and paſs ſentence on him accordingly: but Mr. Brecknock ſaid, it was impoſſible to be tried both by God and the country, for they were diſtinct propoſitions. At length, however, being again urged by the Chief Baron, he made the uſual anſwer, "By God and my country."

George Robert Fitzgerald, and Timothy Brecknock then ſeverally held up their hands, and were reſpectively arraigned, for provoking, ſtirring up, and procuring the ſeveral perſons named in the indictment, traiterouſly and felonioufly to kill and murder Patrick Randal Mc. Donnell, Eſquire. Mr. Stanley then claimed the former indictment to be read, as the charge now made, ſeemed to him to be for the ſame crime laid in the former indictment.

The Chief Baron then deſired Mr. Stanley to plead or demur; and the Attorney General aſked him if he choſe to demur to the indictment? If he did, he would join him in the demurrer *inſtanter*. Mr. Stanley ſaid, he thought himſelf able to ſupport the demurrer; but, after a conſultation with the bar, it was given up as a dangerous experiment; for, if the demurrer was over-ruled, ſentence of death would be paſſed. Mr. Fitzgerald then pleaded to that indictment, as did Mr. Brecknock.

The ſeveral perſons before-mentioned were then arraigned for the murder of Charles Hipſon; and Mr. Fitzgerald, and Mr. Brecknock were afterwards arraigned for procuring the murder of the ſaid Charles Hipſon; and pleaded in the uſual form. After which, an affidavit of Mr. Fitzgerald's was read, for the purpoſe of poſtponing his trial, which from inability was ſigned with his mark. It ſtated Mr. Fitzgerald's having been arreſted on the twenty firſt of February, his tenantry baniſhed, and his being himſelf ſtacked in priſon: it alſo ſtated the abſence of four material witneſſes, and the temper of the country, which rendered it impoſſible, with ſafety, to abide his trial until the next aſſizes.

The Attorney General then moved, that two affidavits, which he held in his hand, might be read, which was ordered accordingly. One of them was the affidavit of Andrew Edmondſon, which proved notice of trial being ſerved on Mr. Fitzgerald; the other was the affidavit of Patrick Clark, under ſheriff of the county, purporting that Mr. Fitzgerald, on the evening of the day on which he was committed, had told him that he ſhould be properly rewarded, &c.

The Attorney General ſaid, he did not wiſh to preſs on the trial, but he wiſhed to inform him, (Mr. Fitzgerald) that his trial would certainly come on long before the next aſſizes.

The Chief Baron obſerved that, from the ſtate in which he ſaw him, he had judicial knowledge of his ſituation; and, in ſuch a ſtate a man ought to be perfectly at eaſe: the irons are to be taken off from a priſoner who is to be tried—why? That he may be in full poſſeſſion of himſelf. Another part of his affidavit he feared was but too true, that the country was not in a ſtate of temper fit for his trial. Human nature will be human nature ſtill, and where crimes like theſe are perpetrated, it is impoſſible not to feel reſentment: and he was fortified in his opinion when he conſidered, that even he, the priſoner, when in gaol, in the cuſtody of the law was not ſecure from violence—But he thought it very right in the Attorney General to acquaint Mr. Fitzgerald, that he muſt be ſpeedily tried, the public tranquility could not remain diſturbed, and it was probable that he and Baron Power would return in the next vacation to try Mr. Fitzgerald. He thought it alſo neceſſary to ſay, that the trial was poſtponed but on the ſtate of the priſoner, and his affidavit of it; which kind of affidavits he knew ought always ſparingly to be received. He was therefore of opinion that the trial ought now to be put off.

The Attorney General declared, that government had ordered him to proſecute the gentleman who had wounded Mr. Fitzgerald in priſon, with the ſame rigour as Mr. Fitzgerald himſelf. The court then adjourned for half an hour to let Mr. Fitzgerald go out.

As ſoon as the court was opened again, Mr. Brecknock, claimed it as his right, as an Engliſhman, to have a jury of *mediator linguæ*; when the Chief

Chief Baron informed him that, whenever he was tried, he would be tried according to law.

John Cox, James Maſterſon, David Saltry, Philip Cox, Archibald Newing, John Barney, Henry George, Michael Bruen, John Reheney, and William Robinſon, were arraigned for the murder of Mr. M'Donnel, and Mr. Hipſon. The priſoners were then removed.

The Chief Baron adjourned the commiſſion to Caſtlebar, till the 8th of June.

Mr. Brecknock's refuſal, when brought into court, to anſwer in the uſual manner, that he would be tried by God and his country, aroſe, it ſeems, from a miſtaken idea, that the terms were to be underſtood in the ſame ſenſe in which they were originally applied. For it is contended by ſome, that the proper queſtion put to the priſoner, previous to his trial, was, by whom he would be tried? Which meant, by God or the country? That is, by ORDEAL, or by JURY? For the trial by ORDEAL uſed formerly to be called *Judicium Dei.* But, upon indictments, ſince the abolition of ordeal, there can be no other trial than by jury *per pais*, or by the country; and therefore, if the priſoner refuſes to put himſelf upon the inqueſt in the uſual form; that is, to anſwer that he will be tried by God and the country, if a commoner; and, if a peer, by God and his peers, the indictment, if in treaſon, is taken *pro confeſſo*; and the priſoner, in caſe of felony, is adjudged to ſtand mute, and, if he perſeveres in his obſtinacy, ſhall be convicted of the felony.

Mr. Brecknock, was equally erroneous, when he alſo claimed a jury *de medietate*; by which it appears, (as well as his objection to calling Ireland his country) that he conſiders himſelf, becauſe an Engliſhman to be a foreigner; as the humanity of our laws allows an alien to be tried by a jury compoſed of half foreigners, if ſo many be found in the place; which does not (according to a learned judge) hold in treaſons; aliens being very improper judges of the breach of allegiance.

We have thought it neceſſary to give ſo much of the former proceedings at Caſtlebar, when theſe trials were firſt intended to have been brought on; as may ſerve as a neceſſary clue, to the proceedings on the 8th of June, 1786, when the judges again opened their commiſſion, at Caſtlebar, which

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is the ſhire town of the county of Mayo. Previous to the trial, a ſpecial jury was ſworn.

On Friday, the ninth of June, Mr. Fitzgerald was brought to the bar, at about half an hour after eight o'clock in the morning. He peremptorily challenged fifteen of the jury, and the Attorney General challenged, ſuch of the jury as he was informed ſtood in any degree of relationſhip to the deceaſed. He then proceeded to open the buſineſs, and painted, with much warmth of colouring, the extent of the offence for which the priſoner was arraigned—he inveighed againſt the turbulent ſpirit which had too long diſgraced many parts of Ireland, and hoped the court would, that day, be enabled to furniſh ſuch an example as would deter ſuch daring violators of the laws, in future, from acts of outrage. He continued on his legs a conſiderable time, adducing proofs, and ſtating the enormity of the crime, which he obſerved was unparalleled—a murder which had been premeditated eighteen months, and carried into execution with unexampled cruelty.

The following gentlemen, not having been objected to by either party, they were given the priſoner in charge.

Thomas Lyndſay, Senior, Eſq; *Hollymount.*

Smith Steale, Eſq; of *Foxford*
John More, Eſq;
James Gildea, Jun. Eſq; of *Colough.*
James Lynch, Eſq;
John Joyce, Eſq; of *Oxford.*
Charles Baynes, Eſq; of *Lakeland.*
William Ouſley, Eſq; of *Ruſhbrook.*
James Miller, Eſq; *Weſtport.*
Thomas Ormſby, Eſq; of *Ballimore.*
Joſeph Lambert, Eſq; of *Tower.*
Willam Elliſon, Eſq; of *Caſtlebar.*

Mr. GALLAGHAN, *ſworn.*

Q. Do you know that an implacable hatred ſubſiſted between Mr. Fitzgerald and Mr. Mc. Donnel?

A. I know that Mr. Fitzgerald had a great antipathy to Mr. Mc. Donnel.

Q. Do you not know that the priſoner had laid ſeveral plans for the diſtruction of Mr. Mc. Donnel?

A. Several, my Lord, but none of them were attended with ſucceſs, till a ſhot from Mr. Fitzgerald's houſe wounded the deceaſed Mr. Mc. Donnel, as he paſſed by.

Q. Was not the deceaſed, and you, as his friend, greatly alarmed at this circumſtance?

A. Certainly, my Lord; we conſidered it as a kind of prelude to ſome future outrages; and our ſuppoſitions were but too well founded.

Q. Was any perſon apprehended for that outrage?

A. Yes,

A. Yes, my Lord, a man was apprehended and tried for it, but the evidence was not ſufficient to convict the ſuppoſed offender, and he was conſequently acquitted. In conſequence of which, Mr. Fitzgerald levelled his reſentment not only againſt Mr. M'Donnel, but alſo againſt Mr. Charles Hipſon, who was murdered at the ſame time with Mr. M'Donnel, and againſt me; I ſuppoſe for our uſing our utmoſt endeavours to bring to juſtice the perſon who fired at Mr. M'Donnel, the deceaſed.

Q. How did Mr. Fitzgerald act upon this acquittal?

A. Finding himſelf ſo far ſucceſsful, my Lord, he prevailed upon a magiſtrate, whoſe name was O'Meally, to take examination againſt Mr. M'Donnel, myſelf, and Mr Hipſon, and to grant warrants againſt us.

Q. What was the conſequence of this meaſure?

A. Mr. M'Donnel being informed of theſe tranſactions, and knowing the implacable deſperation of the priſoner, left his houſe, and took a lodging in this town for ſafety.

Q. What do you know further of this buſineſs?

A. On the twentieth of February laſt, about ten o'clock in the forenoon, I accompanied Mr. M'Donnel and Mr. Hipſon, to Mr. M'Donnel's houſe, the deceaſed being deſirous of giving ſome inſtructions to his ſervants, then at his houſe in the country; for Mr. M'Donnel declared to me he could not live at his houſe at Chancery-Hall, in the county of Mayo, being in the neighbourhood of Mr. Fitzgerald, whom he repreſented as a bloodthirſty unforgiving man, and he had taken lodgings in the town of Caſtlebar to avoid him.

Q. Was Mr. Fitzgerald made acquainted with your intended viſit to Mr. M'Donnel's houſe?

A. I believe, my Lord, he had received information of it, for he ſent a party to take us into cuſtody, on the warrants which he ſurrepticiouſly obtained from this unworthy magiſtrate; and before the party arrived we had left Mr. M'Donnel's houſe and were returning to town (Caſtlebar.)

Q. How did you act under theſe circumſtances?

A. Finding that we were purſued, we took ſhelter in a houſe upon the road.

Q. That, I fear, was but little protection?

A. No, my Lord, for the houſe was ſoon ſurrounded by the party, who fired ſeveral times into it, and at length burſt open the door.

Q. Did you expoſtulate with them on this very unprecedented behaviour?

A. I aſked them what could induce them to make this attack? And they informed me that they had warrants againſt Mr. M'Donnel Mr. Hipſon, and myſelf.

Q. Did any of you deſire them to produce the warrants?

A. I did, my Lord; but they refuſed ſo to do, and enquired for Mr. M'Donnel.

Q. What anſwer did you give them?

A. I told them Mr. M'Donnel had rode off.

Q. Where was Mr. M'Donnel at the time you gave them this information?

A. He had concealed himſelf in a heap of malt, but they ſoon diſcovered him, dragged him out from thence, and put him on horſeback, as he could walk but very indifferently, on account of the wound which he received in his leg, which I have already mentioned to your Lordſhip. They then tied me to Mr. Hipſon, and conducted us all three, as priſoners, to Mr Fitzgerald's houſe.

Q. How long did you continue there?

A. When we arrived there, we alledged that the crime we were accuſed of, was at any rate bailable, and demanded to be brought before a magiſtrate, which was refuſed, and we were kept at Mr. Fitzgerald's houſe that night, they pretending it was too late to bring us before a magiſtrate; we remained there that night, and were treated with the greateſt indignity and inſult.

Q. What happened the next morning?

A. A guard was then prepared to conduct us; and the priſoner at the bar gave particular directions to Andrew Craig, to be ſure to ſecure his priſoners, and, if there was a reſcue, to ſhoot them.

Q. What was the next ſtep taken?

A. When we had got about two or three hundred yards from the houſe, Andrew Craig called out to the party, "A reſcue!"

Q. What happened in conſequence of his calling out a reſcue?

A. A ſhot was inſtantly fired by one of the rear guard, which killed one of the priſoner's own men, and wounded two or three others. They afterwards fired at Mr. Hipſon and I; and I fell as if I had been killed. Afterwards they followed Mr. M'Donnel, who had been wounded in the arm with one of the firſt ſhots, when, his mare taking fright, ſhe ran off with him. He was ſtopped, however, at the bridge, by a man who had been poſted there, to prevent the eſcape of any of us; and Andrew Craig who arrived there ſoon after, fired a ſhot in his body and killed him. If any life remained in him after the firing, it was beat out by the butt end of a piſtol, and butt ends of muſkets.

Q. After you had been wounded and fell, did you attempt to make your eſcape?

A. I did, my Lord; whilſt the party were purſuing the unfortunate gentlemen who fell ſacrifices upon this melancholy occaſion, I endeavoured to eſcape, but was obſerved by ſome of them, when creeping behind the ſhelter of a buſh.

Q. How happened you to eſcape with life?

A. My Lord, I ſupplicated them for my life in the moſt affecting manner I was capable of, and the ferocity of the ſavages was ſo far ſoftened, that they

they agreed to take me to the priſoner's houſe, where I was ſoon after reſcued by my friends. They were indeed going to ſhoot me, when one of them exclaimed, "We have no orders to ſhoot him.

ANDREW CRAIG, *ſworn.*

(He was an actor in this bloody ſcene, but admitted an evidence.)

Q. What is your name?

A. Andrew Craig, my Lord.

Q. Was you one of Mr. Fitzgerald's party, on the twenty-fifth of February laſt, when Mr. M'Donnel and Mr. Hipſon were killed?

A. I was my Lord. Mr. Fitzgerald deſired me to go and apprehend Mr. M'Donnel, Mr. Hipſon, and Mr. Gallaghan on a warrant he had obtained from Mr. Juſtice O'Meally, and to bring them to Rockfield: I was employed by Mr. Fitzgerald, who always employed me in all his enormities. The next morning we ſettled about the plan of murdering them. The perſons who ſettled it, were Mr. Fitzgerald, Mr. Timothy Brecknock, Mr. John Fulton, and myſelf.

Q. It is ſuppoſed you were very active on that day. Did not you fire at Mr. M'Donnel?

A. I did, my Lord; his horſe took fright, and ran away with him; but the horſe was ſtopped by a man poſted at the bridge. I came up with him as ſoon as I could, and ſhot Mr. M'Donnel.

Q. Was the wound mortal that he received from your firing at him?

A. Yes, my Lord, he died in a very ſhort time afterwards.

Q. When you quitted Mr. Fitzgerald's houſe on the 21ſt of February, under pretence of taking Mr. M'Donnel, Mr. Hipſon, and Mr. Gallaghan before a juſtice, did the priſoner give you any particular charge?

A. Yes, my Lord.

Q. What where his words, as near as you can recollect?

A. Andrew, ſays he, "be ſure to ſecure your priſoners, and, if there ſhould be a reſcue, ſhoot them".

Q. You knew, I ſuppoſe, what were Mr. Fitzgerald's intentions when you quitted his houſe with your three priſoners?

A. Yes, my Lord, the whole plan had been communicated to me, and I had received full inſtructions from Mr. Fitzgerald how to act. I received inſtructions from him to perpetrate this horrid act, both before we went off, and as we were going out.

Q. The pretended reſcue, I ſuppoſe, was a pre-concerted plan, was it not?

A. Yes, my Lord.

Q. Relate what you know of the particulars?

A. It was agreed, my Lord, that I ſhould call out "a reſcue", as an excuſe for firing upon Mr. M'Donnel and his friends.

ſpoke

Q. How many of the priſoner's party were privy to this plan?

A. Only two, my Lord.

Q. Was it not alſo agreed upon, by the priſoner's party, in order to ſave appearances, to ſacrifice ſome of his own men in the front?

A. Yes, my Lord, two men were poſted behind a wall, to fire at them for that purpoſe.

The remainder of Andrew Craig's evidence, being only in corroboration of what Mr. Gallaghan had before depoſed, a repetition of the ſame circumſtances would doubtleſs be diſagreeable to our readers.

Here the evidence for the crown cloſed; immediately after which Mr. Fitzgerald addreſſed the court, begging he might be indulged to ſpeak for himſelf, which being readily granted, he made a moſt able defence. He ſpoke for a conſiderable time with aſtoniſhing compoſure, conſidering what his feelings muſt be at ſo awful a criſis.

The evidence was ſo clear againſt John Fulton, John Reheny, Archibald Newing, William Fultun and David Simpſon, that they were all convicted: the former was executed with Mr Fitzgerald and Mr. Brecknock, and the four latter were ordered for execution at a future day.

Mr. Fitzgerald's defence was very trifling: ſome weak attempts being made to prove an *alibi*; but to no purpoſe.

The Chief Baron gave an excellent charge to the jury, who, after retiring for about ſeven minutes, brought in a verdict, GUILTY.

On Monday, Mr. Brecknock was tried and found guilty, and when his trial was over, Mr. Fitzgerald was brought into court to receive ſentence of death.—He addreſſed the court to the following purpoſe.

"My lords, I humbly hope for the humane indulgence of this court, to "my preſent unhappy ſituation. I do not mean, my lords, to take up your "time; but I truſt that what I ſhall ſay will be attended with effect. "The very ſhort period of time that has elapſed ſince my conviction, has been "taken up in adjuſting my temporal affairs; and, in truth, my lords, even "theſe are not yet perfectly ſettled. But I wiſh to make ſome preparation, "ſome ſettlement of peace with Heaven, before I paſs into the preſence of "an all-ſeeing and juſtly offended God, which I am about to do.

"My lords, you may be led to imagine, that I plead for this indulgence "of time, in hopeful expectation of obtaining his majeſty's pardon; but, "my lords, I do moſt ſolemnly declare it is no ſuch inducement; for, if his "majeſty were to offer me his pardon, nay his crown along with it, I would "not accept either the one or the other: under the weight of ſuch a verdict "againſt me, it is impoſſible I could ever look one of the community in the "countenance, or again hold up my head in ſociety. Let it not be under-

"ſtood,

" ſtood, my lord, that, by this declaration, I inſinuate or infer the ſmalleſt " degree of cenſure on the verdict of my jury. No, my lords, I know them " all to be gentlemen of the moſt fair and irreproachable characters; men " not to be biaſſed, and who could not avoid bringing me in guilty, if I " were their brother, from the evidence that has appeared againſt me; which, " if I was before acquainted with, I ſhould have endeavoured to have had " witneſſes to repel; but that, my lords, is not now a matter for conſide- " ration—the only thing I plead for is time."

" It is ſaid alſo, my lords, that I want that time to commit an act of ſuicide; " but I have too many offences on my back, and dreadful crimes to account " for, to have ſuch a miſerable paſſport into eternity."

Here his ſpeech ended, and the Chief Baron, with tears in his eyes, recapitulated the rigour of the law, and his duty as a judge; obſerving that the unfortunate Mr. M'Donnel had been ſent into eternity without a moment's warning; that, after the ſentence of death had been paſſed, and the order for execution, it was not in the power of the court to interfere, and his requeſt muſt reſt with the humanity of the ſheriff.

Some conſiderable time after the court had adjourned, Brecknock and Fulton were put into a kind of cart, drawn by one horſe, and carried pinioned to the place of execution, on the hill of Caſtlebar, where the new gaol is building, and where part of the ſcaffolding was appropriated to the purpoſe of a gallows. Some ſhort time after, Mr. Fitzgerald came out of the gaol, having preciouſly beſeeched the ſheriff not to permit him to be pinioned or tied with cords. He walked, without any kind of manacle, to the place of execution, ſurrounded by ſtrong detachments of both horſe and foot. He was attended by the Rev. Mr. Henry, and at the gallows, by three other clergymen. Whilſt he was there, he read Dr. Dodd's thoughts in priſon, as alſo his laſt prayer; and, when the executioner was about to launch him into eternity, he begged the ſheriff would grant him five minutes longer, and then pulled the cap over his face. Upon being told that the time was elapſing faſt, Mr. Fitzgerald replied, " Sure it is not ſo long! I have juſt collected myſelf—pray let me die in peace!"

By the miſmanagement of the executioner, the rope by which Mr. Fitzgerald was ſuſpended, inſtantly broke on the ſudden jerk of his ſwing off the ladder: this accident was principally occaſioned by the rope being tied round a flat board, a part of the ſcaffolding of the new goal. Mr. Fitzgerald then fell on his ſhoulder, but immediately recovered himſelf,

ſelf and ſtood on his legs, and ſaid aloud to the ſheriff—" Mr. Sheriff, it " is impoſſible but that you ſhould know ſuch a rope could not hang any " man, pray get a better!"

The clergymen ſurrounded him, and a new rope was obtained, and replaced about his neck; he was then requeſted to go further upon the ladder, which he refuſed to do: the ladder was drawn away, and the rope being again twiſted about the flat board, let him down ſo low, that his feet, for ſome time actually touched the ground; till the hangman, with much difficulty, drew him up; but in ſuch a manner, that he ſtill remained ſuſpended within eighteen inches of the ground. When he was cut down, the ſheriff, as the law requires, had his body cut and ſcarred.

Mr. Brecknock at firſt, refuſed to join in prayer with the clergyman attending; he having before repeated the Lord's Prayer in Greek, and ſaid he would uſe no other—he had no occaſion, as he had not committed any actual ſin for nine years paſt; at that time he drove the devil from every pore of his body, and he knew he ſhould live a thouſand years with Chriſt. This, it ſeems, is according to the old heretical tenets of the Millenarians, of which Mr. Brecknock profeſſed himſelf a member. He was preſſed to join in repeating Dr. Dodd's laſt prayer, and was at length aſked if he had any objection to it? He ſaid no, he had read it, and ſaw no harm in it; ſo they might read it for him. He appeared to have great compoſure towards his laſt moments, ſtill looking ſteadfaſtly at Mr. Fitzgerald, and when he launched into eternity, made no ſtruggle.

Mr. Brecknock appeared to be about ſeventy years of age, and of a venerable aſpect, to which his figure and a long beard very much contributed.

John Fulton, who was the ſon of one of Mr. Fitzgerald's bailiffs, behaved with great decency and becoming penitence at the place of execution. Being queſtioned with regard to the crime, for which he was about to ſuffer, he acknowledged that he, two perſons not yet taken, and others, conſpired to take the life of Patrick Randal M'Donnel, and that he was guilty of the crime for which he was about to ſuffer. He ſaid that Scotch Andrew had offered him a hundred pounds, at one time, to kill Mr. M'Donnel, which he certainly endeavoured to do; but that he had not a word on the ſubject with Mr. Fitzgerald, except once, when he and Hughes, not yet taken, had way-laid and fired at Mr. M'Donnel, and one of the ſhot hit him in the heel; on telling which to Mr. Fitzgerald, he ſaid,

" The

" The Devil may fire your eyes out! Why did you not fire higher up, and " hit him in the head or ſtomach?"—Fulton confeſſed other enormities, which are improper to be related: he entreated forgiveneſs of thoſe whom he had offended, and was very devout and earneſt in his prayers before he was launched into eternity.

The body of Mr. Fitzgerald, immediately after execution, was carried to the ruins of Turlagh houſe, and was waked in a ſtable adjoining, with a few candles placed about it. On the next day it was carried to the church yard at Turlagh, where he was buried on what is generally termed the wrong ſide of the church, in his cloaths, without a coffin.

The fate of Mr. Fitzgerald is much to be lamented upon many conſiderations. He ſprang from an ancient and honourable family, and is allied to many of the firſt families both in England and in Ireland. His mother, Lady Mary Fitzgerald, who is one of the moſt amiable of women, is one of the ladies of honour to princeſs Amelia. He is nephew to the Earl of Briſtol, who is alſo biſhop of London derry, and he is couſin German to Lord Mulgrave: he is brother-in-law to the Right Hon. Thomas Conolly; to the Counteſs of Buckinghamſhire, and Lady Howe. To theſe particular alliances, we may add, that he is connected with many other very reſpectable families.

This melancholy narrative ſhould be a uſeful leſſon to all ranks of men; and teach, that however endowed by providence, with great intellectual abilities, or high rank, and conſequence in life, yet both, if perverted to wrong purpoſes, under the unreſtrained rage of lawleſs or libidinous paſſions, inſtead of bleſſings, become the moſt heavy curſes to thoſe who may boaſt of this enjoyment; and, though humanity cannot but ſhudder at the idea of the profligate life, and the exemplary death of the unhappy Fitzgerald, yet generous pity will drop a tear, recollecting how fatally the exhalted talents, which this man certainly poſſeſſed, have been buried amid the ruins of folly, extravagance, diſſipation, and vice.

We cannot conclude without obſerving that, in the church-yard, where the remains of the unhappy Fitzgerald are depoſited, is the following account of his family, engraved on the tomb-ſtone of his grandfather.

Honor probataque Virtus.

Here lieth the body of Thomas Fitzgerald, of Turlagh Eſq. who ended a life of as few failings, and as many virtues, as ever fall to the ſhare of one man,

man, the 15th of May, 1747, in the 86th year of his age: he was ſon and heir of John Fitzgerald, of Gurteens in the county of Waterford, whoſe anceſtors and he, enjoyed a great eſtate there, as well as in the county of Kilkenny, from the landing of Strongbow, in the reign of Henry II. A. D. 1107, to the time of his tranſplantation to Mohena. He firſt married Elizabeth Farrens, mother of Ralph Jenniſon, maſter of the buck-hounds to his majeſty George, the ſecond; he afterwards married Henrietta Browne, daughter to John Browne, of the Neale, Eſq. by whom he had Elizabeth, John, George, Nicholas, Julia, Henry, Mary, Cecilia, Edward, and Michael, of which only were married George, to the Right Hon. Lady Mary Hervey, ſiſter to the Right Hon. the Earl of Briſtol; Mary to the Marquis of Arezzo, governor of Naples; Nicholas to Margaret Stephenſon, daughter of James Stephenſon, of Kellybeg, Eſq. and Bridget to Thomas Lyſter, of Grange, Eſq.

Happily the venerable gentleman, whoſe virtues are thus engraved in ſtone, could not foreſee that a grandſon would ſo far degenerate from the actions and principles of his grandſire.

FINIS.

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